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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

JOSE PIMENTEL,

Plaintiff,

v.

J.B. HUNT SERVICES, INC.; J.B. HUNT
TRANSPORT, INC.; AND DOES 1 TO
25,

Defendants.

Case No.

NOTICE OF REMOVAL

[JURY TRIAL DEMANDED]

TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR
ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and
1446, defendant J.B. HUNT TRANSPORT, INC., (herein after “Defendant” or “J.B.
Hunt”) hereby give notice of removal of the action, *Jose Pimental v. J.B. Hunt
Services, Inc. et al.*, Case No. BCV-21-101676, which is currently pending in the
Superior Court of California, County of Kern, to this United States District Court for
the Eastern District of California, Fresno Division, on the basis of diversity of
citizenship.

1 In support of such removal, Defendant states as follows:

2 1. On July 21, 2021, plaintiff Jose Pimental (herein after “Plaintiff”) filed
3 a Complaint in Superior Court of California, County of Kern, under Case No. BCV-
4 21-101676 (the “State Court Action”). The Complaint is pled against J.B. Hunt
5 Transport, Inc., J.B. Hunt Services, Inc. and DOES 1-25. A true and correct copy of
6 the Complaint is attached as Exhibit A to the Declaration of Austin Smith filed
7 concurrently herewith. See Declaration of Austin Smith (“Smith Decl.”), ¶ 2.

8 2. The Summons and Complaint were served on Defendant J.B. Hunt
9 Transport, Inc. through its registered agent for service of process on November 29,
10 2021. A true and correct copy of the Proof of Service of Summons for Defendant
11 J.B. Hunt Transport, Inc. is attached hereto as Exhibit B. See Smith Decl., ¶ 4.

12 3. On December 7, 2021, Plaintiff’s Counsel made an oral motion before
13 the Superior Court, County of Kern, to dismiss Defendant J.B. Hunt Services, Inc.
14 The Court granted the oral Motion. A true and correct copy of the Court’s Minute
15 Order reflecting the dismissal is attached hereto as Exhibit C. Smith Decl., ¶ 5.

16 4. Defendant J.B. Hunt Transport, Inc. filed and served an Answer to the
17 Complaint in the State Court Action on December 27, 2021, a true and correct copy
18 of which is attached to the Declaration of Austin Smith filed concurrently herewith
19 as Exhibit D. See Smith Decl., ¶ 6. A Notice of Filing of Answer in State Court
20 Action is filed concurrently herewith. Id.

21 5. The only other pleadings on file with the state court is a Demand for a
22 Jury Trial and a Notice of Posting Jury Fees filed by Defendant J.B. Hunt Transport,
23 Inc., true and correct copies of which are attached to the Declaration of Austin
24 Smith filed concurrently herewith as Exhibit E and as Exhibit F, respectively. See
25 Smith Decl., ¶ 7.

26 6. Pursuant to 28 U.S.C. Section 1332, this Court has original jurisdiction
27 over the Complaint. Specifically, “[t]he district courts shall have original
28 jurisdiction of all civil actions where the matter in controversy exceeds the sum or

1 value of \$75,000 exclusive of interests and costs, and is between ... citizens of
2 different States.” 28 U.S.C. § 1332(a).

3 7. In the present matter, complete diversity exists because Plaintiff and the
4 named Defendants whose citizenship are properly considered are citizens of
5 different states.

6 8. Upon information and belief, at the time the State Court Action was
7 filed and the present Notice of Removal is filed, Plaintiff was a citizen of the State
8 of California and resident of Frazier Park, California. Smith Decl., ¶ 3.

9 9. At the time this action was filed and at the time this Notice of Removal
10 is filed, Defendant J.B. Hunt Transport, Inc. was and is a Georgia corporation with
11 its principal place of business in Lowell, Arkansas. Defendant J.B. Hunt Transport,
12 Inc. is neither incorporated in California, nor does it have its principal place of
13 business in California. Therefore, for purposes of diversity jurisdiction, Defendant
14 J.B. Hunt Transport, Inc. is a citizen of Arkansas and Georgia and not of California.
15 Smith Decl., ¶ 8.

16 10. At the time this action was filed and at the time this Notice of Removal
17 is filed, Defendant J.B. Hunt Services, Inc. was and is an Arkansas corporation with
18 its principal place of business in Lowell, Arkansas. Defendant J.B. Hunt Services,
19 Inc. is neither incorporated in California, nor does it have its principal place of
20 business in California. Therefore, for purposes of diversity jurisdiction, Defendant
21 J.B. Hunt Services, Inc. is a citizen of Arkansas and not of California. Smith Decl.,
22 ¶ 9.

23 11. None of the Defendants who have been joined and served are Citizens
24 of the State of California. See 28 U.S.C. 1441(b)(2). Smith Decl., ¶ 10.

25 12. Plaintiffs’ Complaint names as Defendants Does 1-25. Defendant is
26 informed and believe, and on that basis allege, that none of these fictitiously named
27 defendants have been served with a copy of the Complaint or Summons. See Smith
28 Decl, ¶ 11. Thus, these fictitiously named defendants are not parties to this action.

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For purposes of removal, “the citizenship of defendants sued under fictitious names shall be disregarded.” 28 U.S.C. §1441(b)(1).

14. California Code of Civil Procedure § 425.10(b) expressly precludes a complaint in a State Court action for personal injury or wrongful death from stating the amount of damages claimed (“where an action is brought to recover actual or punitive damages for personal injury or wrongful death, the amount demanded shall not be stated...”).

15. The severity of physical injury alleged and prayer for damages which includes, but is not limited to, past and future medical expenses, lost wages, future earning capacity, and general damages for pain and suffering, make it facially apparent the amount in controversy exceeds \$75,000. Declaration of Austin Smith, ¶ 12. 28 U.S.C. § 1446(c)(2); McPhail v. Deere & Co. 529 F.3d 947, 954 (10th Cir. 2008); Luckett v. Delta Airlines, Inc. 171 F.3d 295, 298 (5th Cir. 1999).

16. Therefore, the amount in controversy exceeds the minimum amount in controversy requirements of 28 U.S.C. 1332(a).

17. Therefore, because there is complete diversity between Plaintiff and Defendants, and the amount in controversy exceeds the jurisdictional threshold required pursuant to §1332, diversity jurisdiction exists in this action.

18. This is a case of a wholly civil nature brought in California State Court. Pursuant to 28 U.S.C. §1441(a), this civil action may be removed by Defendants to this Court. Plaintiff filed the State Court Action in the Superior Court of California, County of Kern, and therefore, the United States District Court for the Eastern District of California, Fresno Division, is the appropriate venue for removal of the State Court Action as it is the “district and division embracing the place where such action is pending.” See 28 U.S.C. §§1441(a), 1391(a).

19. Based on the foregoing, this Court has original jurisdiction over the Complaint, and removal to this Court from the Superior Court of California, Kern County, is proper pursuant to 28 U.S.C. Sections 1332 and 1441, respectively.

20. Pursuant to 28 U.S.C. §1446(d), Defendants will promptly provide written notice of removal of this action to Plaintiff, and will promptly file a copy of this Notice of Removal with the Clerk of the Superior Court of California, Kern County.

21. All Defendants who, upon information and belief, have been served and whose citizenship is properly considered have filed this Notice of Removal. See Smith Decl., ¶ 13.

Dated: December 29, 2021

HAIGHT BROWN & BONESTEEL LLP

By: /s/ Austin Smith

Peter Dubrawski

Patrick F. McIntyre

Austin Smith

Attorneys for Defendant

J.B. HUNT TRANSPORT, INC.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Jose Pimentel v. J.B. Hunt Services, Inc., et al.
Case No. BCV-21-101676

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 555 South Flower Street, Forty-Fifth Floor, Los Angeles, CA 90071.

On December 29, 2021, I served true copies of the following document(s) described as **NOTICE OF REMOVAL** on the interested parties in this action as follows:

Carol A. Baidas
LAW OFFICES OF VINCENT W.
DAVIS & ASSOCIATES
150 N. Santa Anita Avenue, Suite 200
Arcadia, CA 91006

Attorneys for Plaintiff
Tel: (626) 446-6442
Fax: (626) 446-6454
Email: carol@vincentwdavis.com

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Haight Brown & Bonesteel LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 29, 2021, at Los Angeles, California.

/s/ Julie C. Montesana
Julie C. Montesana